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SARAH BRAGA and  
MATTHEW COTTONE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SARAH BRAGA and MATTHEW  
COTTONE,

Plaintiffs,

vs.

INTERSEC INTERACTIVE, INC., and  
DOES 1–25,

Defendants,

Case No. 15-CV-01145-JST

**DECLARATION OF MATTHEW  
COTTONE IN SUPPORT OF  
PLAINTIFFS' OPPOSITION TO  
DEFENDANTS MOTION TO DISMISS  
AND/OR TRANSFER VENUE**

Filed: March 11, 2015

I, Matthew Cottone, declare as follows:

1. The following facts are based on my personal knowledge, and, if called to testify, I would affirm them.
2. I worked for Defendant Intersec as a producer of adult content and occasionally as an erotic performer. I had several stints with Defendant: from 2003 to 2006, 2008 to 2009, and, most recently, from about October 2012 through about February 2014.
3. During my most recent employment with Defendant, I was a resident of the State of

1 California in the San Francisco Bay Area.

2 4. During my most recent stint with Defendant, I performed over ninety percent of my  
3 work for Defendant in Oakland California.

4 5. During the course of a year, I spent only six to eight weeks during the summer at  
5 Intersec's owner, Brent Scott's, residence in upstate New York.

6 6. During my most recent stint with Defendant, Defendant's only office was in Oakland  
7 California.

8 7. I currently reside in Portland Oregon.

9 8. Throughout my most recent employment with Defendant, Scott's primary residence,  
10 in which he spent nine months out of the year from October to June, is in Emeryville  
11 California. I know this because I worked extensively with Scott during my  
12 employment with Defendant, and we had numerous conversations in which Scott  
13 told me either directly or indirectly where he lived.

14 9. General Manager Daniel Intraub's only residence is in San Leandro California. I  
15 know this because I worked extensively with Intraub during my employment with  
16 Defendant, and we had numerous conversations in which Intraub told me either  
17 directly or indirectly where he lived.

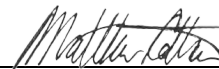
18 10. I have limited means and cannot afford to litigate across the country in New York. I  
19 am currently unemployed. Since Defendant classified me as an independent  
20 contractor and terminated me, I have been unable to collect unemployment  
21 insurance. I am living off of assistance from family and friends. I cannot afford to fly  
22 back and forth to New York and pay for meals and lodging several times. The only  
23 reason I was able to bring this action at all was because my attorney agreed to take  
24 my case on a contingent-fee basis.

- 1 11. When I initially began working for Defendant in 2003, after a brief internship, Scott  
2 hired me and other workers as employees. In about 2005, in the capacity of  
3 company manager, after I advised Scott that he needed to pay its employees  
4 worker's compensation insurance, Scott became angry and instructed me to fire all  
5 of the staff to get them off payroll and required the staff to bill Defendant as  
6 independent contractors. Scott told me that this scheme was intended for Defendant  
7 to avoid paying worker's compensation insurance and employment taxes.
- 8 12. Throughout my most recent tenure with Defendant, I could not make my own hours,  
9 and was required to follow the company schedule. I was required to obtain  
10 Defendant's approval prior to taking any vacations or other time off of work. I used  
11 Defendant's tools—for example, office space, cameras, computers, software, props,  
12 and other office supplies. My employment with Defendant was open-ended, but I  
13 could be terminated at will, without prior notice, and without cause. Indeed  
14 Defendant terminated me without prior notice. I was paid on an hourly basis rather  
15 than on a project basis. Though I worked on an occasional side project, I was not  
16 engaged in my own distinct occupation or business; I worked primarily for  
17 Defendant. The work I performed for Defendant was part of Defendant's regular  
18 business—namely, production of erotic media.
- 19 13. I was included on Defendant's Organizational Chart under my stage name of Cyd  
20 Black.
- 21 14. Throughout my employment with Defendant, Defendant instructed me and other staff  
22 to submit timesheets with a maximum number of pre-determined hours and days  
23 that Defendant would pay us. So, even if I worked more than eight hours in a day, I  
24 would simply indicate eight hours on my timesheet for that day, and even if I worked

1 more than five days per week, I would only submit my timesheet for five days.

2 During the summers, I would work between four and six days per week, ten to twelve  
3 hours per day. But, since Defendant classified me as an independent contractor,  
4 Defendant failed to pay me straight-time and overtime compensation for hours  
5 worked over eight per day and forty per week.

6  
7 Sworn under penalty of perjury under the laws of the State of California this 16th day of  
8 April, 2015.

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Matthew Cottone